



UNITED STATES
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November 20, 2019

Via ECF and By Hand

Honorable Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street, Room 2550
New York, NY 10007-1312

Re: SEC v. George Nikas, et al., 19-cv-009645-CM

Dear Judge McMahon:

The Securities & Exchange Commission (the "Commission") writes in advance of the November 22, 2019 hearing on the Order to Show Cause (the "Order") in connection with the above-captioned case.

Pursuant to the Court's Order (ECF No. 3), on the day of entry, the Commission served the Order on Defendant George Nikas ("Nikas") via electronic mail, along with the Complaint and other materials filed in support of the Application for the Order. *See* Exhibit A (10/18/2019 emails from Assunta Vivolo to George Nikas, at george.nikas@gmail.com and george@grkfresh.com). On October 24, 2019, the Commission was contacted by David Smith, Esq. on behalf of Nikas, and the parties subsequently submitted a stipulation to the Court to extend the deadlines for the Order to Show Cause hearing. *See* ECF No. 13 (10/30/19 Order adjourning Order to Show Cause Hearing to November 22, 2019). The stipulation extended the deadline for Nikas's opposition to the Order to November 14, 2019. *Id.*

On November 7, 2019, Mr. Smith advised that he was not retained to further represent Nikas and provided the name of the attorney he understood was now representing Nikas. *See* Exhibit B (11/18/2019 email from Assunta Vivolo to George Nikas, at george.nikas@gmail.com and george@grkfresh.com). On November 11, 2019, the Commission spoke with this second attorney, who advised that he would represent Nikas in the civil case and planned to make a submission on November 14, 2019. However, on November 14, 2019, the second attorney advised that he would not be representing Nikas in the civil case, and thus would not be submitting any papers in response to the Order or appearing at the November 22, 2019 hearing. *See id.*

On November 18, 2019, the Commission sent the summons and Complaint to Nikas via

email at the addresses george.nikas@gmail.com and george@grkfresh.com.¹ *See id.* In addition, the Commission sent Nikas the stipulation that was so ordered by the Court. *See id.*

As the Court is likely aware, the United States Attorney's Office (SDNY) has filed an indictment against Nikas for his participation in multiple insider trading schemes. The Indictment against Nikas includes, but is not limited to, the conduct by Nikas and Cohen that is alleged in the Commission's complaint. *See* Exhibit C (Indictment of Georgios Nikas, a/k/a George Nikas and Telemaque Lavidas, 19 Cr. 716 (DLC) (filed 10/7/2019)). Although Nikas has not appeared in the criminal case, his co-defendant Telemaque Lavidas² was arrested on October 18, 2019 at Nikas's Manhattan apartment, and has been detained pending trial. *See* Exhibit D (11/14/2019 letter from AUSA Richard Cooper to the Honorable Denise Cote, opposing request to relitigate denial of bail application.)

On November 14, 2019, in opposing co-defendant Lavidas's bail application, the United States Attorney's Office detailed their communications with Nikas's counsel, who advised the Office that Nikas is aware of the criminal indictment and does not plan to appear. To wit:

The defendant's co-conspirator Nikas, who is also charged in the Indictment, is aware of the charges in the Indictment, and has advised the Government, through counsel, *that he plans to remain a fugitive in Greece rather than submit to the jurisdiction of the Court.*

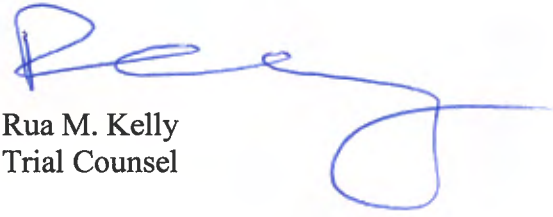
Exhibit D, at 5 (emphasis added).

In conclusion, the Commission advises the Court that counsel has complied with the Order, which has been served on Nikas, along with the summons and Complaint, and other materials supporting the Commission's Application for the Order. As is evident from his consultations with two different attorneys regarding this matter and the aforementioned stipulation, Nikas has received timely notice of the Order and related deadlines. However, Nikas chose not to make a submission in response to the Order and it is uncertain, if not unlikely, that Nikas will appear at Friday's hearing, whether *pro se* or with representation. The Commission will inform the Court promptly if we receive any additional information about Nikas's attendance at the November 22, 2019 hearing.

¹ As reflected in the Commission's Application for Order to Show Cause and the accompanying documentation, the email addresses george.nikas@gmail.com and george@grkfresh.com were used in connection with Nikas's brokerage account at Charles Schwab & Co. *See* Declaration of John Rymas, at ¶¶74-75 (ECF No. 9).

² The indictment alleges Nikas's participation in multiple insider trading schemes involving U.S.-traded securities, including a scheme with Telemaque Lavidas to trade on insider information in shares of the company Ariad Pharmaceuticals, Inc. ("Ariad"), a company on whose board of directors Lavidas's father sat. *See* Exhibit D at 1.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Rua M. Kelly', with a long horizontal flourish extending to the right.

Rua M. Kelly
Trial Counsel

cc: George Nikas (via electronic mail)